

112TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To ensure that all Americans have access to waivers from the Patient Protection and Affordable Care Act.

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IN THE SENATE OF THE UNITED STATES

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Mr. BARRASSO (for himself, Mr. ALEXANDER, Mr. KYL, Mr. WICKER, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To ensure that all Americans have access to waivers from the Patient Protection and Affordable Care Act.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “WAIVE Act”.

5 **SEC. 2. FINDINGS.**

6        Congress makes the following findings:

7            (1) As of July 15, 2011, the Department of  
8        Health and Human Services has approved 1,471  
9        one-year waivers giving some Americans temporary  
10       relief from onerous annual benefit limit mandates in-

1       cluded in the health care laws President Obama  
2       signed on March 23, 2010 and March 30, 2010  
3       (Public laws 111-148 and 111-152).

4               (2) As of July 15, 2011, these 1,471 one-year  
5       annual benefit limit waivers cover 3,200,000 Ameri-  
6       cans.

7               (3) Of the 3,200,000 Americans granted a one-  
8       year annual benefit limit waiver by the Department  
9       of Health and Human Services, approximately half  
10      (1,619,960) are union members.

11              (4) On June 14, 2011, the Government Ac-  
12      countability Office released a report titled “Private  
13      Health Insurance: Waivers of Restrictions on Annual  
14      Limits on Health Benefits”.

15              (5) The Government Accountability Office re-  
16      port proves millions of Americans had to seek waiv-  
17      ers from the health care law’s annual benefit limit  
18      mandate in order to avoid double digit health insur-  
19      ance premium increases.

20              (6) The Government Accountability Office re-  
21      port indicates the Department of Health and  
22      Human Services granted annual benefit limit waiv-  
23      ers to unions, employers, and insurers whose appli-  
24      cations projected significant premium increases of at  
25      least 10 percent or more.

1           (7) The Government Accountability Office re-  
2           port, and additional academic literature, shows that  
3           the Department of Health and Human Services was  
4           forced to grant special annual benefit limit waivers  
5           because certain employers, unions, insurers, and oth-  
6           ers cannot comply with the health care law's new  
7           coverage mandates and continue offering health in-  
8           surance to their employees.

9           (8) The Government Accountability Office data  
10          concludes premiums are going up as a direct result  
11          of the health care law, threatening private insurance  
12          coverage options and violate the promise that "you  
13          can keep what you have today, if you like it".

14          (9) Independent analysis by the non-partisan  
15          Congressional Budget Office confirms that pre-  
16          miums will increase by \$2,100 per year for families  
17          buying insurance on their own, while Administration  
18          officials repeatedly promised the American people  
19          their costs would go down by \$2,500 per year.

20          (10) On June 17, 2011, the Department of  
21          Health and Human Services announced plans to ter-  
22          minate its arbitrary annual benefit limit waiver pol-  
23          icy. Administration officials will stop taking waiver  
24          applications on September 22, 2011.

1           (11) While the Executive Branch did send mil-  
2           lions of postcards advertising the health care law’s  
3           small business tax credit, it remains unclear if simi-  
4           lar efforts are currently underway to inform small  
5           business owners about the new annual benefit limit  
6           waiver process and program termination.

7           (12) Any new business starting up after Sep-  
8           tember 22, 2011 will not have an opportunity to re-  
9           quest and secure an annual benefit limit waiver from  
10          the Department of Health and Human Services.  
11          Without a waiver, these employers may not be able  
12          to afford to offer any health insurance coverage to  
13          their employees at all.

14 **SEC. 3. INDIVIDUAL PPACA WAIVERS.**

15          (a) IN GENERAL.—An individual may apply for a  
16          waiver from one or more of the requirements of the Pa-  
17          tient Protection and Affordable Care Act (or an amend-  
18          ment made by that Act or a regulation promulgated under  
19          that Act or amendment) by submitting an application to  
20          the Secretary of Health and Human Services (referred to  
21          in this Act as the “Secretary”).

22          (b) REQUIREMENTS.—An application submitted  
23          under subsection (a) shall include the following:

24                  (1) The provision or provisions of the Patient  
25          Protection and Affordable Care Act (or an amend-

1       ment made by that Act or a regulation promulgated  
2       under that Act or amendment) for which the waiver  
3       is being sought.

4               (2) A brief description of why compliance with  
5       the provision or provisions involved would result in—

6                       (A) a decrease in access to benefits that  
7                       are currently covered by a plan or policy in  
8                       which the individual is enrolled; or

9                       (B) an increase in premiums to be paid by  
10              the individual for such coverage.

11       (c) COMPLETION OF PROCESS.—The Secretary shall  
12       issue waivers within 30 days of the receipt of such applica-  
13       tion.

14       (d) GUIDANCE.—The Secretary shall issue guidance  
15       to individuals in how they can apply for and be granted  
16       a waiver under this section.